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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

MEDWAY, SCOTT J

ART UNIT

PAPER NUMBER

3763

NOTIFICATION DATE

DELIVERY MODE

01/12/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/580,784	Applicant(s) LUNDGAARD ET AL.	
	Examiner SCOTT MEDWAY	Art Unit 3763	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 May 2006 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>05/25/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Applicant's election without traverse of Species B, claims 1-32, in the reply filed on 11/17/2008 is acknowledged.

Specification

1. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.
2. The disclosure is objected to because of the following informalities: It is the Examiner's position that Applicant has invoked sixth paragraph, means-plus-function language to define Applicant's invention. Therefore the Examiner requires the Applicant to amend the Specification pursuant to 37 CFR 1.75(d) and MPEP 608.01(o) to explicitly state, with reference to the terms and phrases of the claim element, what structure, materials, and acts perform the function recited in the claim element. Please note that the MPEP clearly states, "Even if the disclosure implicitly sets forth the structure, materials, or acts corresponding to the means-(or step-) plus-function claim element in compliance with 35 U.S.C. 112, first and second paragraphs, the PTO may still require the applicant to amend the Specification pursuant to 37 CFR 1.75(d) and MPEP 608.01(o). Also see MPEP 2181 (Rev. 1, Feb. 2000).

Specifically, the phrase "means for withholding a line in said groove *may comprise* a lid part that may be connected to the line retaining part by a hinge" as in page 14, lines 31-32 (emphasis added) is non-explicit since the means for withholding a

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line in the groove, may, but is not required, to comprise a lid part that may be connected to the line retaining part by a hinge.

3. Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

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consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 1-5, 7, 9, 10, 17-24, 26, 31 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Choksi et al (U.S. Pat. 4,820,274, hereinafter "Choksi") in view of Beeman et al (U.S. Pat. 6,438,802 B1, hereinafter "Beeman") or Combott-Courrau et al (U.S. Pat. 5,487,572), hereinafter "Courrau").

Regarding claim 1, Choksi discloses a device for securing a line, specifically a medical line, comprising a line retaining part (20) and a base part (40), where the line retaining part comprises at least one groove (e.g. 24,26) for accommodating a line, and where the base part comprises fixing means (e.g. 42,43). Choksi additionally discloses a locking means (e.g. 33) for providing a connection between the line retaining part and the base retaining part. It is noted that Choksi does not disclose at least one groove designed with flexible retaining means comprising a plurality of flexible parts protruding into the groove. Beeman discloses a locking mechanism for fastening a cord or a tube, comprising a plurality of flexible parts (10) protruding into the groove. Courrau additionally discloses a locking mechanism for fastening a cord or a tube, comprising a plurality of flexible parts (e.g. 22) suitable to deform upon insertion of a line into the groove. It would have been obvious for one of ordinary skill in the art at the time of the invention to consider installing flexible retaining parts such as taught by Beeman or Courrau, so as to apply the known technique of improving the holding capability of a line retaining part with the intended result of allowing a line to be inserted and fixed in place

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without falling out or becoming loosened from the line retaining part. Such a holding capability using flexible parts is well-known and would have been considered an obvious improvement to those with working knowledge in the art.

Regarding claims 2-5 and 7, either Beeman or Courrau disclose and show that the flexible parts are placed lateral of the groove, being designed as flexible blades protruding into the groove and located at an angle between 10 degrees and 80 degrees in relation to the axis of the groove (see Figs. 4-7 of Courrau). Additionally, as per claim 7, the grooves of either Beeman or Courrau are located on both sides of the groove. It would have been obvious to one of ordinary skill in the art to adapt these characteristics of either Beeman or Courrau into the line securing device of Choksi, since flexible blades of this configuration would have been considered obvious so as to allow a tube to be inserted into a line retaining part in one direction and be held in place if attempts were made to remove the tube in an opposite direction from its insertion direction. The blades of Beeman or Courrau are disclosed to be configured in this way so as to allow for such an obvious improvement (Courrau, col. 4, lines 22-37; Beeman, col. 8, lines 15-25).

Regarding claim 6, it is noted that Choksi does not disclose the flexible retaining means placed at only one side of the groove. Instead Choksi discloses the flexible retaining means placed around the groove. However, it would have been obvious to consider reducing the amount of flexible retaining means so as to reduce the cost of the device while still allowing the device to perform its intended function. In addition, it has been held that the omission of an element or part where the remaining elements or

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parts perform the same functions as before, involves only routine skill in the art. *In re Karlson*, 136 USPQ 184).

Regarding claim 8, it is noted that Choksi does not disclose only one groove in the line-retaining part. Instead Choksi discloses two grooves. Since Applicant has not disclosed that one groove solves any stated problem or is critical to the invention compared with two grooves, it would have been obvious to merely reduce the number of grooves so that there is one groove instead of two grooves, since it has been held that the omission of an element or part where the remaining elements or parts perform the same functions as before, involves only routine skill in the art. *In re Karlson*, 136 USPQ 184).

Regarding claim 9, Choksi shows in Fig. 7 that two grooves (24, 26) are made for accommodating a line each and they are placed essentially in parallel.

Regarding claim 10, Choksi discloses the line retaining part to be made of plastic (col. 2, lines 46-48), which is a known polymer.

Regarding claims 17-24 and 26, Choksi discloses, as shown in Figs. 2 and 7, the fixing means of the base part comprising two opposing jaw parts (42, 43) being forced together by a hinge and a spring means (47), where the spring means is a flexible spring part connected between the jaw parts and acting on either of the jaw parts (col. 3, lines 32-45). The jaw parts are shown in the Figures to be designed as a curved hook element, where the hook element is formed at the end of a flexible elongated part of the base, and where the base is made from plastic (col. 2, lines 46-48) which is a known polymer. The fixing means is fully capable of being utilized to clip onto structural

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parts, the clipping being aided by the spring-loaded means previously described. The fixing means comprises mechanical means such as a jaw clamping mechanism for securing the base part near the patient.

Regarding claims 31 and 32, Choksi discloses a means for withholding a line in said groove which comprises a lid part (32) that is fully capable to be connected to the line retaining part by a hinge.

8. Claims 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Choksi et al (U.S. Pat. 4,820,274) in view of Beeman et al (U.S. Pat. 6,438,802 B1) or Combot-Courrau et al (U.S. Pat. 5,487,572), further in view of Goebel et al (U.S. Pat. 6,428,514 B1, hereinafter "Goebel").

Regarding claims 11-14, it is noted that Choksi in view of Beeman or Courrau does not disclose the complementary locking means disclosed by Choksi to be a snap-locking means comprising a tap having an annular part and a complementary annular groove or vice-versa, where the locking means is a swivel joint. Goebel discloses a device having a base part (11) and a line-retaining part (e.g. 10) where the line-retaining part is connected to the base part with a snap-in mechanism (38, 39, 43) which is a tap having an annular part a complementary annular groove. The line retaining part and base part are designed as a swivel joint, allowing the line retaining part to rotate and to be adjusted in relation to the base part. Since Choksi suggests that the line-retaining part may be rotated in relation to the base part (col. 3, lines 42-44), it would have been obvious to one of ordinary skill in the art at the time of the invention to consider a snap-

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in locking mechanism of Goebel as a substitute for the mechanism of Choksi, since merely replacing the mechanism of Choksi with that of Goebel would allow the line-retaining part of Choksi to be easily detached from its base part, and using a swivel joint as taught by Goebel would allow a greater degree of adjustment than using the rotational joint of Choksi alone.

9. Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Choksi et al (U.S. Pat. 4,820,274) in view of Beeman et al (U.S. Pat. 6,438,802 B1) or Combot-Courrau et al (U.S. Pat. 5,487,572), further in view of Goebel et al (U.S. Pat. 6,428,514 B1), still further in view of Rebeyrolle et al (U.S. Pat. 5,318,192, hereinafter "Rebeyrolle").

Regarding claims 15 and 16, the combination of Choksi in view of Beeman or Courrau, further in view of Goebel does not specifically disclose limit stops or interacting means such as toothed rings or cogging to allow relative movement of the line retaining part with a base part within a limited range.

Rebeyrolle discloses an assembly of a cap portion and a base portion, where the cap and base portions are connected with a snap-in mechanism having teeth (4,6,7,8,9) allowing for relative movement and a limited angular range of movement. It would have been obvious for one of ordinary skill in the art at the time of the invention to merely fashion cogs of Rebeyrolle onto a snap-in mechanism of Goebel, so as to allow a selective rotation of the line-retaining part, where the selective rotation improves the

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accuracy and control of the rotation, and further implementing a stop so as to inhibit free motion when the line or base is accidentally rotated with respect to the other.

10. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Choksi et al (U.S. Pat. 4,820,274) in view of Beeman et al (U.S. Pat. 6,438,802 B1) or Combot-Courrau et al (U.S. Pat. 5,487,572), further in view of Bierman (U.S. Pat. 4,711,636).

It is noted that the combination of Choksi in view of Beeman or Courrau discloses that the fixing means comprises adhesive means. Bierman discloses a tube connector which may be secured to the patient using adhesive means (col. 2, lines 27-29). It would have been obvious for one of ordinary skill in the art to consider adapting the adhesive pad of Bierman for use on the device of Choksi in view of Beeman or Courrau, so as to allow the line-securing device to be attached and fixed to the patient to allow the patient to ambulate or be moved while maintaining the line-securing device in place to secure a line.

11. Claims 27-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Choksi et al (U.S. Pat. 4,820,274) in view of Beeman et al (U.S. Pat. 6,438,802 B1) or Combot-Courrau et al (U.S. Pat. 5,487,572), further in view of Mawhirt et al (U.S. Pat. 4,944,924, hereinafter "Mawhirt").

Regarding claims 27-30, it is noted that Choksi does not disclose the line-retaining part comprising two side parts where the parts are complementary and

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designed as dovetail joints to form locking means. Mawhirt discloses a device for retaining a tube, comprising two complementary side parts (80,86,88,90 and 58,60,62,64,66) where the side parts form a dovetail joint and are designed as complementary locking means so as to allow the retaining device to be connected with a similar or identical retaining device. It would have been obvious for one of ordinary skill in the art the time of the invention to consider implementing the complimentary dovetail joint side parts of Mawhirt into the device of Choksi in view of Beeman or Courrau, so as to allow for a variety of lines or tubes to be retained at the same time or to more effectively stack, store or easily transport multiple retaining devices in one container by selectively interlocking them together.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant is directed to the *Notice of References Cited*.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SCOTT MEDWAY whose telephone number is (571) 270-3656. The examiner can normally be reached on Monday through Friday, 7:30 AM to 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on (571) 272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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01/02/2009

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